

## **REMARKS**

### **In the Drawings:**

In light of the Examiner's request, Applicant submits Replacement Sheets for the Figures. Applicant respectfully requests that the Examiner accept the Replacement Sheets.

Applicant has amended Claims 30 and 33. Applicant represents that the features specified in Claims 30 and 33 are shown in the figures. More specifically, the flange is numbered 76 in Figures 10 and 11. Applicant respectfully requests that the Examiner withdraw this objection to the drawings.

### **In the Claims:**

#### **Election/Restrictions**

In light of the election of Claims 28-33, Applicant has cancelled Claims 1-27 and 34-40.

#### **35 U.S.C. § 112**

The Examiner rejected Claims 30 and 33 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. More specifically, the Examiner rejected Claims 30 and 33 as new matter. Applicant has amended Claims 30 and 33 and believes that the Claims are now allowable.

Additionally, the Examiner rejected Claims 30-33 under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter. More specifically, the Examiner has rejected Claims 30 and 33 as being vague and indefinite. Applicant has amended these claims. Applicant believes that Claims 30-33 are now allowable.

Finally, the Examiner stated the term “the electromechanical flexible enclosure” lacked clear antecedent basis, and therefore rejected Claim 31. Applicant has amended Claim 31 to cure the antecedent issue. As a result, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 112 rejection of Claim 31.

### **35 U.S.C. § 102**

The Examiner has rejected Claims 28-33 as being anticipated by Muderlak et al. (WO 97/13086). The Examiner states that Muderlak et al discloses a drive mechanism for a flush lever of a sanitary fixture comprising an electromechanical actuator (60) mounted on a moveable plate (62) within an enclosure (52), operably engaging the flush lever (30); first (74) and second (80) bracket halves projecting from the enclosure, substantially enclosing and rigidly engaging a bushing (44) and a hexagonal nut (46) securing the flush lever to the sanitary fixture; fasteners (84) for securing the first and second bracket halves to the enclosure; and a power source (104) for the electromechanical actuator; and wherein opposing faces of the first and second bracket halves comprise a complementary topography to the bushing and nut.

Applicant represents that Muderlak et al does not disclose an electromechanical actuator (60) mounted on a movable plate (62). Muderlak et al discloses a motor (56) which is connected through a reduction gear train (58) to a gear (62). The gear (62) disclosed in Muderlak is not a movable plate as claimed in the present application. Furthermore, Muderlak et al does not disclose an electromechanical actuator mounted on a movable plate. As a result, Applicant respectfully requests that the Examiner withdraw the rejections of Claims 28-33 and grant allowance of the pending Application.

Because Claims 30 and 33 are dependent on Claims 28 and 31 respectively, Applicant submits that Claims 30 and 33 are also allowable.

### **SUMMARY**

Applicant believes that Claims 28-33 are allowable. Applicant therefore respectfully requests that the Examiner withdraw the objections and rejections, and grant allowance of this application. The Examiner is invited to contact the undersigned attorneys for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Adam D. Airhart', is written over a horizontal line.

Adam D. Airhart  
Registration No. 51,387  
Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200